

COPY

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 11 THE PERMANENTE MEDICAL GROUP E-filing

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA

15 SHAMANEEN Z. KHAN,) No.
 16 Plaintiff,)
 17 v.) NOTICE OF REMOVAL OF CIVIL
 18 THE PERMANENTE MEDICAL GROUP,) ACTION UNDER 28 U.S.C. SECTION
 19 INCORPORATED, A CALIFORNIA) 1441(b)
 20 CORPORATION, SEIU – UNITED)
 21 HEALTHCARE WORKERS – WEST, A) (FEDERAL QUESTION)
 22 CALIFORNIA CORPORATION and DOES 1-)
 23 50, INCLUSIVE,)
 24 Defendants.)

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE THAT Defendants SEIU, United Healthcare Workers – West
 3 (the “Union” or “UHW”) and The Permanente Medical Group (“PMG”) hereby file with this Court
 4 its Notice of Removal from the Superior Court of the State of California, for the County of
 5 Alameda, Case No. HG08375316, entitled *Shamaneen Z. Khan v. The Permanente Medical Group*,
 6 et al. The following statements are submitted pursuant to 28 U.S.C. § 1446:

7 1. Defendants UHW have been served with the following documents:

8 Exhibit A – Summons for Defendant UHW; and

9 Exhibit B – Complaint for Damages Based on Religious Discrimination, (Failure to
 10 Accommodate), Wrongful Termination in Violation of Public Policy and Infliction of Emotional
 11 Distress.

12 2. This Notice of Removal is filed within thirty days of Defendants having been served
 13 with the above documents. Defendants UHW were served on or about March 7, 2008.

14 3. At all times material herein, Defendant The Permanente Medical Group was an
 15 employer within the meaning of 29 U.S.C. § 152 and 29 U.S.C. § 402(e). The activities of
 16 Defendant PMG affect interstate commerce.

17 4. At all times material herein, Defendant UHW was, and is, a labor organization
 18 within the meaning of 29 U.S.C. § 152 and 29 U.S.C. § 402(i). None of the activities of Defendant
 19 UHW affect interstate commerce.

20 5. Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185, confers upon
 21 Federal Court subject matter jurisdiction over suits for violations of contracts between employers
 22 and labor organizations. 29 U.S.C. § 185; *Stallcop v. Kaiser Found. Hosps.*, 829 F.2d 1044, 1048
 23 (9th Cir. 1987). Union constitutions are “contracts” within the meaning of the Section 301(a). See
 24 *Plumbers & Pipefitters v. Local 334*, 452 U.S. 615, 627, 101 S.Ct. 2546, 69 L.Ed.2d 280 (1981);
 25 see also *Kinney v. IBEW*, 669 F.2d 1222, 1229-30 (9th Cir. 1982).

26 6. Resolution of the Plaintiff’s claims will require a determination of the Union’s and
 27 employer’s obligations to the Plaintiff under the terms of the Collective Bargaining Agreement.
 28 The analysis will be undertaken in accordance with 29 U.S.C. § 185. As such, despite being

couched in state law terms, the suit is subject to complete preemption. *See Franchise Tax Bd. v. Constr. Laborers Vacation Trust Fund*, 463 U.S. 1, 23 (1983); *Newberry v. Pac. Racing Ass'n*, 854 F.2d 1142, 1146 (9th Cir. 1988). In addition, Plaintiff's claims that she appealed the Union's decision not to represent her to the Union's Steward Council, which is pursuant to the Union's Constitution and By-laws, so resolution of Plaintiff's claims will also require the analysis, application, and interpretation of the Union's Constitution and By-Laws.

7. Plaintiff in this matter essentially alleges that she was terminated without cause in violation of the Collective Bargaining Agreement between UHW and PMG, and that the Defendant Union and its agents breached a duty of fair representation owed to her by allegedly refusing to represent her after she was terminated. Plaintiff's terms and conditions for employment are determined by a Collective Bargaining Agreement between Defendant PMG and Defendant UHW.

8. At all times herein Defendant PMG and Defendant UHW have been parties to a written Collective Bargaining Agreement affecting commerce which has governed the employment of the Plaintiff.

9. Here, Plaintiff claims that Defendant PMG breached its contract with her by terminating her. In addition, Plaintiff claims that Defendant UHW breached a duty of fair representation owed to her arising under 29 U.S.C. § 158(b)(1)(a) and § 159(a). Where the state law claims are based on the employer's and Union's conduct in relation to duties or obligations arising from a particular Collective Bargaining Agreement, preemption under § 9 of the National Labor Relations Act, 29 U.S.C. § 159, merges with preemption under § 301, 29 U.S.C. § 185, and provides additional grounds for removal of jurisdiction.

10. Defendants are entitled to remove this action to this Court pursuant to 28 U.S.C. § 1441(b).

11. All parties who have been served or otherwise have knowledge of this have joined in this Notice of Removal.

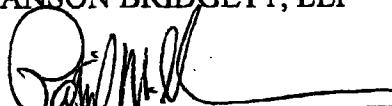
12. This Superior Court for the County of Alameda is located in the Northern District and therefore this court is the proper court for the removal of this action.

WHEREFORE, Defendants hereby file this Notice of Removal.

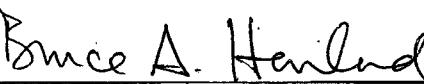
1 Dated: March 1, 2008

2 HANSON BRIDGETT, LLP

3 By:

4 
5 PATRICK GLENN
6 Attorneys for Defendants
7 The Permanente Medical Group8 Dated: March 1, 20089 WEINBERG, ROGER & ROSENFIELD
10 A Professional Corporation

11 By:

12 
13 WILLIAM A. SOKOL
14 BRUCE A. HARLAND
15 Attorneys for Defendant
16 SEIU, United Healthcare Workers - West

17 118590/488369

28

SUMMONS
(CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

The Permanente Medical Group, Incorporated, a California Corporation, SEIU - United Healthcare Workers-West, a California Corporation and Does 1-50, inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
Shamaneen Z. Khan

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ENDORSED
FILED
ALAMEDA COUNTY

MAR 07 2008

CLERK OF THE SUPERIOR COURT
By Cecilia Anchundo, Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

Hayward Hall of Justice
24405 Amador Street
Hayward, California 94544

CASE NUMBER:
(Número de caso): **H 08375316**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Eugene T. Franklin, Attorney At Law Telephone: (510) 538-0969

22762 Main Street, Hayward, California 94541

CECILIA ANCHUNDO

DATE: **MAR 07 2008** PAT SWEETEN Clerk, by _____, Deputy
(Pecia) **EXECUTIVE OFFICER/CLERK** (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify): **SEIU - United Healthcare Workers - West**
a California Corporation

under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):

4. by personal delivery on (date):

1 Eugene T. Franklin [SBN124881]
2 Barbara F. Green [SBN 150320]
3 Franklin Employment Law Group
4 Attorneys At Law
5 22762 Main Street
6 Hayward, California 94541
7 (510) 538-0969

ENDORSED
FILED
ALAMEDA COUNTY

MAR 07 2008

CLERK OF THE SUPERIOR COURT
By Cecilia Anchundo, Deputy

Attorneys for Plaintiff
Shamaneen Z. Khan

SUPERIOR COURT OF CALIFORNIA

ALAMEDA COUNTY

Shamaneen Z. Khan,

Plaintiff,

vs.

The Permanente Medical Group,
Incorporated, a California Corporation,
SEIU - United Healthcare Workers-West,
a California Corporation and Does 1-50,
inclusive,

Defendants.

Case No. **AG 08375316**

**COMPLAINT FOR DAMAGES BASED
ON RELIGIOUS DISCRIMINATION,
(FAILURE TO ACCOMMODATE),
WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY AND
INFILCTION OF EMOTIONAL
DISTRESS**

[UNLIMITED JURISDICTION]

JURY DEMAND

Plaintiff Shamaneen Z. Khan ("Plaintiff Khan" or "Plaintiff") demands that this matter be tried by a jury. Plaintiff complains and alleges as follows:

FACTS COMMON TO ALL CAUSES OF ACTION

21 1. Plaintiff alleges on information and belief that defendant The Permanente Medical Group,
22 Incorporated ("defendant Kaiser") is a California corporation, organized and doing business in the
23 County of Alameda. Defendant Kaiser is an employer subject to suit under the California Fair
24 Employment and Housing Act, Government Code §12940(a), et. seq. ("FEHA"), in that defendant
25 Kaiser is an employer who regularly employs five or more persons.
26 2. Plaintiff alleges on information and belief that defendant SEIU-United Healthcare Workers-West,
27 Incorporated (defendant Union) is a California corporation, organized and doing business in the
28 County of Alameda. Defendant Union is an employer subject to suit under the California Fair

EXHIBIT B

1 Employment and Housing Act, Government Code §12940(a), et. seq. ("FEHA"), in that defendant
2 Union is an employer who regularly employs five or more persons.

3 3. The true names and capacities of defendants named herein as DOES 1-50, inclusive, whether
4 individual, corporate, associate, or otherwise, are unknown to plaintiff who therefore sues such
5 defendants by such fictitious names pursuant to California Code of Civil Procedure, §474. Plaintiff
6 will seek leave of the court to amend her complaint to reflect the Doe defendants' true names and
7 capacities when they have been ascertained. Each Doe defendant is a California resident. All
8 references to any defendant in the singular or plural is intended to include all the Doe defendants.

9 4. Each Doe defendant is responsible in some manner for the events and injuries herein described
10 and each Doe defendant has caused damages thereby to plaintiff as herein alleged. Further, each
11 defendant whether named or Doe defendant was the agent and/or employee of the other and was
12 acting within the course and scope of that agency and/or employment.

13 5. On or about February 19, 2007, and March 26, 2007, plaintiff Khan filed a charge of
14 discrimination against defendants Kaiser and the Union with the Equal Employment Opportunity
15 Commission (EEOC). See exhibits "A" and "B," which are incorporated herein by this reference
16 as though fully set forth herein. Plaintiff Khan timely filed her charge of discrimination against
17 defendant Union; however, the EEOC failed to file plaintiff's charge of discrimination. As a result,
18 on March 5, 2008, plaintiff filed a second charge of discrimination against the Union because of the
19 EEOC's error. See exhibits "B," and "D" which are incorporated herein by this reference as though
20 fully set forth herein [see *Josephs v. Pacific Bell* (9th Cir 2006) 443 F.3d 1050, 1061]. These charges
21 of discrimination were filed within one year of the dates of the discrimination herein alleged against
22 defendants.

23 6. On or about April 3, 2007, plaintiff Khan received notice from the DFEH through the EEOC of
24 her right to bring this action against defendant Kaiser, and plaintiff timely filed this action within one
25 year after the time specified in that notice. A copy of this notice of right of action is attached to this
26 form, marked Exhibits "C" and is incorporated by this reference as though fully set forth herein.

27 7. On or about March 5, 2008, plaintiff Khan received notice from the DFEH through the EEOC
28 of her right to bring this action against defendant Union, and plaintiff timely filed this action

1 within one year after the time specified in that notice. A copy of this notice of right of action is
2 attached to this form, marked Exhibits "E" and is incorporated by this reference as though fully set
3 forth herein.

4 8. Alameda County is the proper venue under Gov. Code §§§ 12940(a), et seq. and 12965(b), in
5 that the unlawful employment practices complained of herein occurred in Union City, Alameda
6 County, California.

7 9. On or about March 18, 1998, defendant Kaiser hired plaintiff Khan for the position of service
8 partner. At the time of defendant Kaiser's termination of her employment, plaintiff had been
9 working as a medical assistant since about October 1998. At all times relevant, plaintiff performed
10 and was willing and able to continue to perform her work duties in a satisfactory manner.

11 10. At all relevant times, plaintiff Khan has been a member of Local 250 of the SEIU - United
12 Healthcare Workers-West, defendant SEIU UHW.

13 11. Plaintiff is a devout Muslim and her creed requires that all Muslims make a once in a lifetime
14 Hajj, pilgrimage to Mecca in Saudi Arabia. For the last several years, the Hajj had occurred in
15 December or January. According to the Muslim religion, the pilgrimage each year is determined by
16 the sighting of the new moon in December or January.

17 12. In or about January 2006, plaintiff planned her 2006 Hajj. In January 2006, Plaintiff requested
18 defendant Kaiser grant her vacation during the period of about December 11, 2006 to about January
19 5, 2007. Defendant Kaiser instead placed plaintiff on a waiting list for the dates of December 22,
20 26, 27, 29 and January 2, 2007, and granted her request for the other dates.

21 13. In or about January 2006, plaintiff complained to defendant Kaiser's manager, Debbie Henning-
22 Cook, that she needed all the dates requested for vacation because she was going on a religious
23 pilgrimage to Mecca during that period. Defendant's manager told plaintiff to wait and see what
24 happened with the waiting list.

25 14. In or about June 2006, plaintiff applied for vacation on January 8 to 10, 2007. Defendant
26 Kaiser approved those dates.

27 15. In or about October 2006, plaintiff again told defendant Kaiser's manager, Henning-Cook, that
28 she needed defendant Kaiser's approval for the dates of December 22, 26, 27, 29, 2006, and

1 January 2, 2007, because she had to go on the religious pilgrimage to Mecca during the period. On
2 or about November 20, 2006 defendant's manager, Henning-Cook, told plaintiff that defendant
3 Kaiser would not approve those dates and that if plaintiff went on her pilgrimage on those dates,
4 defendant Kaiser would discipline her.

5 16. Thereafter, plaintiff complained to defendant SEIU UHW about defendant Kaiser's conduct
6 toward her. Plaintiff told defendant SEIU UHW's agent, shop steward Jackie (Last name unknown)
7 that she had requested vacation dates for a religious pilgrimage, that defendant Kaiser had denied
8 her those dates, and that defendant had threatened her with discipline if she used those dates to go
9 on her religious pilgrimage to Mecca. Defendant SEIU UHW's agent Jackie told plaintiff that
10 defendant SEIU UHW could not do anything to help her and that defendant Kaiser could terminate
11 plaintiff's employment for job abandonment if plaintiff went on her religious pilgrimage on the dates
12 denied for vacation by defendant Kaiser.

13 17. Thereafter, plaintiff also complained about defendant Kaiser's conduct to defendant SEIU
14 UHW's senior shop steward, Darlene Rubino, but defendant SEIU UHW's senior agent Rubino also
15 told plaintiff that defendant SEIU UHW could do nothing to help her.

16 18. In or about December 2006, defendant Kaiser's managers, Debbie Hennington-Cook asked
17 plaintiff if she was still going on her pilgrimage. Plaintiff answered affirmatively and again
18 requested defendant Kaiser's approval of the dates of December 22, 26, 27, 29, 2006, and January
19 2, 2007, for that purpose. Manager Henning-Cook told plaintiff that defendant would not approve
20 the time off and that defendant would also not approve a leave of absence without pay for those
21 dates.

22 19. On or about December 15, 2006, defendant Kaiser approved December 22, 2006, as a vacation
23 day for plaintiff but still refused to approve December 26, 27, 29, and January 2, 2007,
24 notwithstanding it knew or should have known that its denial interfered with plaintiff's religious beliefs
25 and/or practices.

26 20. On December 21, 2006, Plaintiff left the United States for her religious pilgrimage to Mecca,
27 Hajj. Saudi Arabia officials announced that the 2006 Hajj, Muslim pilgrimage to Mecca, would
28 occur on December 26 to 30, 2006.

1 21. On December 26, 27, 29, 2006, and January 2, 2007, plaintiff called defendant Kaiser to notify
2 it that she was in Mecca for the pilgrimage.

3 22. On or about January 16, 2007, defendant Kaiser by and through manager Henning-Cook and
4 defendant's human resource department informed plaintiff that effective January 17, 2007, her
5 employment would be terminated for job abandonment.

6 23. On or about January 17, 2007, plaintiff complained to defendant SEIU UHW about defendant
7 Kaiser's termination of her employment based on religious discrimination. Defendant SEIU UHW's
8 agent, shop steward Darlene Rubino, told plaintiff, "We can not accommodate every religion," and
9 defendant SEIU UHW did nothing to assist plaintiff with her complaint about religious
10 discrimination against her by defendant Kaiser.

11 24. On or about August 2, 2007, despite plaintiff's request for defendant Union file a grievance
12 against defendant Kaiser, defendant SEIU UHW advised plaintiff that it would not pursue an unjust
13 discipline grievance against defendant Kaiser on her behalf. On or about January 31, 2008, Kaiser
14 Division Steward Council Appeal Board of defendant SEIU UHW upheld defendant SEIU UHW's
15 decision not to pursue an unjust discipline grievance against defendant on behalf of plaintiff.

16 25. As a proximate result of defendants' discriminatory actions against plaintiff Khan, as alleged
17 above, plaintiff has been harmed in that plaintiff has suffered the loss of the wages/salary, benefits,
18 and additional amounts of money plaintiff would have received but for defendants' discriminatory
19 conduct. All the alleged damages will be established in an amount according to proof.

20 26. Each defendant encouraged, participated in and/or ratified and approved the conduct of which
21 complaint is herein made and the policies and practices giving rise to such conduct.

22 27. The above-recited actions of defendants in discriminating and wrongfully terminating
23 plaintiff's employment were done with malice, fraud, or oppression, and in reckless disregard of the
24 plaintiff's rights under the FEHA within the meaning of Civ. Code § 3294.

25
26 **FIRST CAUSE OF ACTION**
27 **(As to Both Defendants)**
28 **(Religious Discrimination)**

28. Plaintiff hereby incorporates by reference the above Paragraphs as if fully set forth herein.

1 29. At all times herein mentioned, Government Code § 12940(a), et seq., was in full force and
2 effect and were binding upon defendants. These statutes require defendants to refrain from
3 discriminating against any employee on the basis of religion, among other things.

4 30. Defendants' discriminatory actions against plaintiff, as alleged above, constituted unlawful
5 discrimination in employment on account of plaintiff's religion, in violation of FEHA § 12940(a),
6 et seq.

7 31. Defendants discriminated against plaintiff on account of her religion. Therefore,
8 defendants' conduct warrants the assessment of punitive damages.

9 **SECOND CAUSE OF ACTION**
10 **(As To Both Defendants)**
11 **(Failure To Accommodate)**

12 32. Plaintiff incorporates by reference the above paragraphs of this complaint, as though
13 fully set forth.

14 33. At all times herein mentioned, California Government Code § 12940(a), et seq., was in
15 full force and effect and were binding upon defendants. These statutes required defendants to
16 provide a reasonable accommodation plaintiff's sincerely held Muslim religious beliefs. Such
17 accommodation would not have imposed an undue hardship on defendants.

18 **THIRD CAUSE OF ACTION**
19 **(As To Both Defendants)**
20 **(Failure to Prevent Religious Discrimination)**

21 34. Plaintiff incorporates by reference the above paragraphs of this complaint, as though fully
22 set forth.

23 35. As above-described, defendants failed to take immediate and appropriate corrective
24 action to stop this discriminatory conduct against plaintiff. Furthermore, before the
25 discrimination occurred, defendants and each of them failed to take all reasonable steps to
26 prevent such discrimination from occurring. Defendants' conduct violated California Gov. Code
27 § 12940(a), et seq.

28 36. Defendants knew or should have known of these discriminatory actions because the
actions complained of herein were carried out by defendants' management and/or supervisory
personnel.

1 37. Defendants' conduct was extreme and outrageous and done with reckless disregard of the
2 consequences to plaintiff.

3 **FOURTH CAUSE OF ACTION**
4 **(As To Defendant Kaiser Only)**
5 **[Wrongful Termination In Violation Of Public Policy]**

6 38. Plaintiff incorporates by reference the above paragraphs of this complaint, as though fully set
7 forth.

8 39. Defendants discriminated against plaintiff when they conspired to terminated and/or when
9 defendants terminated and refused to prevent the termination of plaintiff's employment because she
needed a reasonable accommodation for her religious beliefs.

10 40. As a result of defendants' intentional, malicious and unlawful termination of her employment,
11 plaintiff has lost her salary, employment benefits, and other compensation, in an amount to be proven
12 at trial. In addition, plaintiff suffered emotional pain, suffering, and mental anguish, in an amount
13 to be proven at trial.

14 **DECLARATORY RELIEF ALLEGATIONS**

15 41. Plaintiff incorporates by reference the above paragraphs of this complaint, as though fully set
16 forth.

17 42. An actual controversy exists between plaintiff and defendants concerning their respective
18 rights and duties. Plaintiff contends that defendants violated her rights under the FEHA by denying
19 her a reasonable accommodation for her religious beliefs and by retaliating against plaintiff by
20 terminating her employment because she went on a religious pilgrimage to Mecca. Plaintiff is
21 informed and believes and based thereon alleges that defendants and each of them deny plaintiff's
22 allegations. Declaratory relief is therefore necessary and appropriate.

23 43. Plaintiff seeks a judicial declaration of the rights and duties of the respective parties, including
24 but not limited to a declaration of defendants' duty to comply with the requirement of the FEHA.

25 WHEREFORE, PLAINTIFF prays judgment against Defendants and each of them, as
26 follows:

27 a. For general damages for religious discrimination, failure to accommodate
28 plaintiff's religious beliefs, failure to prevent discrimination and wrongful termination in
violation of public policy according to proof at trial;

1 b. For compensatory damages according to proof, including lost earnings and
2 other employee benefits, and damages for emotional distress, humiliation and mental anguish. See
3 Government Code § 12970;

4 c. For interest on the amount of losses incurred in earnings and other employee
5 benefits at the prevailing legal rate;

6 d. For punitive damages in accordance with Civil Code §3294 in an amount
7 appropriate to punish defendants for their wrongful conduct and set an example for others;

8 e. For an order directing defendant Kaiser to reinstate plaintiff to her
9 position, with all back pay and employee benefits; and

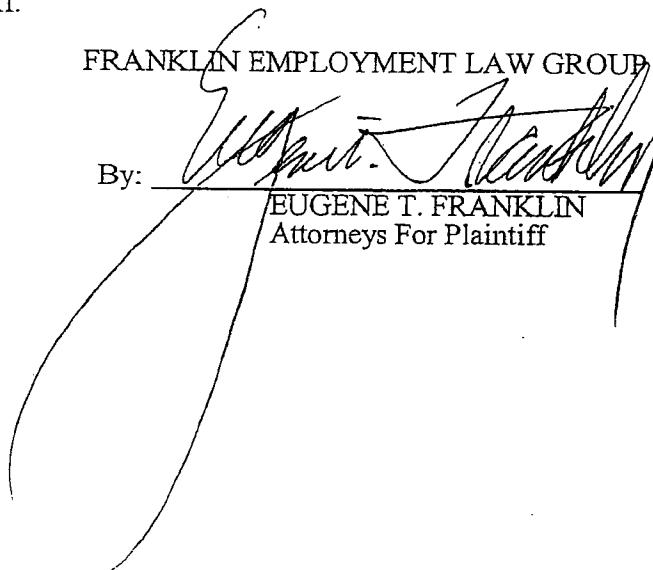
10 f. For such other and further relief as the court deems proper.

11 WHEREFORE, Plaintiff prays as incident to any judgment obtained against Defendants:

12 For reasonable attorneys' fees pursuant to Government Code §12965(b) and costs of
13 suit incurred by Plaintiff.

14 Dated: March 6, 2008

FRANKLIN EMPLOYMENT LAW GROUP

15 By: 

16 EUGENE T. FRANKLIN
17 Attorneys For Plaintiff

EXHIBIT A

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC Agency(ies) Charge No(s): 555-2007-00370
California Department Of Fair Employment & Housing and EEOC <small>State or local Agency, if any</small>		
Name (Indicate Mr., Ms., Mrs.) Ms. Shamaneen Z. Khan		Home Phone No. (Incl Area Code) (510) 429-1718 Date of Birth
Street Address 34225 Aspen Loop, Union City, CA 94587		City, State and ZIP Code
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)		
Name KAISER PERMANENTE		No. Employees, Members 500 or More Phone No. (Include Area Code) (510) 675-3080
Street Address 3553 Whipple Rd, Union City, CA 94587		City, State and ZIP Code
Name Street Address		No. Employees, Members Phone No. (Include Area Code)
DISCRIMINATION BASED ON (Check appropriate box(es).)		
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input checked="" type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below)		DATE(S) DISCRIMINATION TOOK PLACE Earliest 01-17-2007 Latest
<small>THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):</small> <p>I was hired by Respondent in March 1998. My most recent job title was Medical Assistant. In January 2006, I applied for vacation to go on a religious pilgrimage to Saudi Arabia. Throughout the year, I made several attempts to arrange the time off, but was not approved for the complete vacation. In December 2006, I left for Saudi Arabia. I returned to work and was discharged on January 17, 2007. When I complained to Darlene Rufino (Shop Steward) on January 18, 2007, her response was "We cannot accommodate every religion."</p> <p>Respondent's stated reason for the discharge was job abandonment.</p> <p>I believe that I have been discriminated against because of my religion, Muslim, in violation of Title VII of the Civil Rights Act of 1964, as amended.</p>		
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		<small>NOTARY – When necessary for State and Local Agency Requirements</small>
I declare under penalty of perjury that the above is true and correct.		<small>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</small> <small>SIGNATURE OF COMPLAINANT</small> <small>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</small>
<small>Date 3/26/07</small> 		<small>RECEIVED</small> <small>APR 02 2007</small> EEOC-SFDO

EXHIBIT B



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
San Francisco District Office**

350 The Embarcadero, Suite 500

San Francisco, CA 94105

National Contact Center: (800) 669-4000

National Contact Center TTY: (800) 669-6820

San Francisco Status Line: (866) 408-8075

San Francisco Direct Dial: (415) 625-5602

TTY (415) 625-5610

FAX (415) 625-5609

March 5, 2008

Franklin Employment Law Group
Eugene T. Franklin
22762 Main Street
Hayward, CA 94541-5114

RE: Shamaneen Z. Khan v. SEIU-United Healthcare Workers-West
EEOC Charge # 550-2008-01147

Dear Mr. Franklin:

This is to confirm that the Equal Employment Opportunity Commission (EEOC) received a minimally sufficient questionnaire from your client on February 26, 2007 which named SEIU-United Healthcare Workers-West as a Respondent. As the most recent date of violation was January 18, 2007, your client filed the questionnaire within the timely period. While this Respondent was not given notice of the charge due to an administrative error, the date of charge filing relates back to the date this office received the questionnaire.

If you have any further questions, please do not hesitate to contact me at (415) 625-5613 or michael.baldonado@eeoc.gov.

Sincerely,

Michael Baldonado
Acting District Director

EXHIBIT C

STATE OF CALIFORNIA - State and Consumer Services Agency

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

Date: April 3, 2007

1001 Tower Way, Suite 250
Bakersfield, CA 93309
(661) 395-2729

Case Name: SHAMANEEN KHAN VS KAISER PERMANENTE

EEOC No: 555-2007-00370

1320 E. Shaw Avenue, Suite 150
Fresno, CA 93710
(559) 244-4760

611 West Sixth Street, Suite 1500
S/T
Los Angeles, CA 90017
(213) 439-6799

1515 Clay Street, Suite 701
M
Oakland, CA 94612
(510) 622-2941

2000 "O" Street, Suite 120
E
Sacramento, CA 95814
(916) 445-5523

1350 Front Street, Suite 3005
D
San Diego, CA 92101
(619) 645-2681

San Francisco District Office
A
1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2973

111 North Market Street, Suite B10
G
San Jose, CA 95113
(408) 277-1277

2101 East Fourth Street, Suite 255-B
Santa Ana, CA 92705
(714) 558-4266

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

Wanda J. Kirby
WANDA J. KIRBY
Chief Deputy Director

EXHIBIT D

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

(SEE ADDRESS CHECKED BELOW)

TTY # (800) 700-2320

Date: March 5, 2008

Case Name: SHAMANEEN Z. KHAN vs. SEIU-UHW
UNITED HEALTHCARE WORKERS-WEST

EEOC No: 550-2008-01147

NOTICE TO COMPLAINANT AND RESPONDENT

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The DFEH does not retain case records beyond three years after a complaint is filed.

Given DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. This right-to-sue notice allows you to file a private lawsuit in state court.

Under California law, the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint, the lawsuit may be filed in a state of California Superior Court. Government Code section 12965, subdivision (a), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine whether the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is reached. Questions about the right to file under federal law should be referred to the EEOC or a other agency.

WANDA J. KIRBY

Chief Deputy Director

DFEH-200-02 (05/07)

ALTERNATIVE DISPUTE RESOLUTION
INFORMATION PACKAGE
Effective April 15, 2005

Instructions to Plaintiff / Cross-Complainant

In all general civil cases filed in the trial courts after June 30, 2001, the plaintiff is required to serve a copy of this ADR information package on each defendant.

California Rules of Court, Rule 201.9 (Excerpt)

(a) Each court must make available to the plaintiff, at the time of filing of the complaint, an Alternative Dispute Resolution (ADR) information package that includes, at a minimum, all of the following:

- (1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes . . .
- (2) Information about the ADR programs available in that court . . .
- (3) In counties that are participating in the Dispute Resolution Programs Act (DRPA), information about the availability of local dispute resolution programs funded under the DRPA . . .
- (4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.

(b) Court may make package available on Web site . . .

(c) The plaintiff must serve a copy of the ADR information package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR information package on any new parties to the action along with the cross-complaint.

EXHIBIT E

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

 FEPA
 EEOC

550-2008-01147

California Department Of Fair Employment & Housing

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ms. Shamaneen Z. Khan

Home Phone (incl. Area Code)

Date of Birth

Street Address

City, State and ZIP Code

34225 Aspen Loop, Union City, CA 94587

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

SEIU-UHW-UNITED HEALTHCARE WORKERS.

No. Employees, Members

Phone No. (Include Area Code)
(510) 251-1250

Street Address

City, State and ZIP Code

560 Thomas L. Berkeley Way, Oakland, CA 94612

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

01-17-2007

 CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was hired by Kaiser Permanente in March 1998. my most recent job title was Medical Assistant. In January 2006, I applied for vacation to go on a religious pilgrimage to Saudi Arabia. Throughout the year, I made several attempts to arrange the time off but was not approved for the complete vacation. In December 2006, I left for Saudi Arabia. I returned to work and was discharged on January 17, 2007. When I complained to Darlene Rufino (Shop Steward for Respondent) on January 18, 2007, she refused to represent me in the grievance process.

Respondent's stated reason for failing to represent me in the grievance process was that it "cannot accommodate every religion."

I believe I have been discriminated against because of my religion, Muslim, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWEORN TO BEFORE ME THIS DATE
(month, day, year)

Date



Charging Party Signature

TOTAL P.02

PROOF OF SERVICE

I am a citizen of the United States, and a resident of the State of California. I am over the age of eighteen years, and not a party to the within action. My business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501-1091. On April 2, 2008, I served upon the following parties in this action:

Eugene T. Franklin
Attorney at Law
22762 Main Street
Hayward, CA 94541

copies of the document(s) described as:

NOTICE OF REMOVAL OF A CIVIL ACTION; and CIVIL CASE COVER SHEET

[X] **BY MAIL** I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Alameda, California. I am readily familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

[] **BY PERSONAL SERVICE** I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and caused the same to be delivered by hand to the offices of each addressee.

[] **BY OVERNIGHT DELIVERY SERVICE** I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and placed the same for collection by Overnight Delivery Service by following the ordinary business practices of Weinberg, Roger & Rosenfeld, Alameda, California. I am readily familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of Overnight Delivery Service correspondence, said practice being that in the ordinary course of business, Overnight Delivery Service correspondence is deposited at the Overnight Delivery Service offices for next day delivery the same day as Overnight Delivery Service correspondence is placed for collection.

[] **BY FACSIMILE** I caused to be transmitted each document listed herein via the fax number(s) listed above or on the attached service list.

I certify that the above is true and correct. Executed at Alameda, California, on April 2, 2008.

118636/489142

Rhonda Fortier-Bourn